



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
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Via Electronic Mail and First Class Mail

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Re: San Jacinto River Waste Pits Superfund Site

Dear Counsel:

We appreciate you and your clients' willingness to participate in our December 7 meeting regarding the remedial design for the San Jacinto site. The purpose of this letter is to follow up on some of the significant topics discussed at the December 7 meeting.

International Paper Company (IP) and McGinnes Industrial Management Corporation (MIMC) have expressed a willingness to negotiate a settlement agreement to conduct the remedial design for the site. However, before a Statement of Work for an administrative order is formulated and an order finalized, IP and MIMC stated that a site-specific technical approach should be formulated for addressing the design of the selected site remedy. The process proposed would involve:

- 1) A meeting, preferably in January, between technical representatives of EPA, IP, MIMC, TCEQ, and the U.S. Army Corps of Engineers. The EPA is currently working to secure the USCOE's assistance with remedial design issues. The EPA also would like to set a date for this technical meeting. The EPA believes that the primary purpose of the initial meeting should be preparation for the subsequent programming meeting with technical experts, discussed below, with the Corps' expertise being used to begin to refine the best management practices for the remedial action. Before the initial meeting takes place, it will be necessary to finalize an agreed-upon agenda.
- 2) A meeting subsequent to the initial meeting between the above-mentioned parties, together with experts with knowledge of projects similar to the remedy selected for the site ("Technical Working Group"). This "programming session" would likely be a multiday session to identify and create basic parameters for a technical working team or teams, and to discuss general design and process ideas to be considered and addressed by the team(s). The EPA agreed that it would need to identify appropriate expertise to represent the Agency in the Group; and

- 3) Once formulated, the Technical Working Group would recommend a more specific process for implementing the remedial design as well as the eventual specifics of the design. The EPA said that it has implemented a similar process at the Chevron/Questa Mine site, and committed to providing the documents underpinning that effort. The Department of Justice representative also stated that she would follow-up with DOJ personnel working on sediment remediation sites.

The EPA currently is considering the details of how this approach might work for the San Jacinto site. While not discussed at the December meeting, the drafting and exchange of language by the Technical Working Group regarding process or agreements will require attorney involvement; this and other aspects of the proposal are subject to final approval by Agency management.


At the meeting, IP and MIMC also expressed a willingness to provide funding for technical consultants with expertise required for the remedial design to support EPA. In addition, EPA stated that field work, such as sampling, in support of the remedial design may be necessary in the short term.

Some other issues that were not resolved include:

- 1) The timeline for a Remedial Design Administrative Settlement Order - While the EPA is willing for the work of the Technical Working Group to inform the contents of the Statement of Work for an administrative order, the EPA is not comfortable for the Technical Working Group to be addressing site design for a prolonged period in the absence of an order. The amount of design and process detail necessary before an order will be finalized will require further discussion;
- 2) EPA costs - As discussed at the meeting, the EPA would like to be reimbursed up front for its costs to oversee the design and engage the Corps of Engineers for the project. The EPA is considering mechanisms by which the PRPs could provide this funding if agreement can be reached; and
- 3) The timing of special notice pursuant to Section 122(e) and negotiations for the performance of the remedial action - IP and MIMC would prefer to wait to negotiate a remedial action consent decree until after the remedial design provides more information about the specifics of the remedy. While the EPA is interested in a timetable that will increase the likelihood of successful negotiations, the EPA also is concerned about delays in the process if negotiations are postponed until much later in the remedial design. The EPA and DOJ will consult further before they make a decision on this matter.

We appreciate your work and your cooperation in considering how to successfully implement the selected remedy. We look forward to discussing this matter with you further. Should you have any questions, please feel free to call me at 214-665-2169.

Sincerely,



Anne Foster
Assistant Regional Counsel

cc: Andrew C. Cooper
Hunsucker Goodstein

Elizabeth A. Webb
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